

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 16486

PERMIT 10325

LICENSE 5956

ORDER ALLOWING CHANGE IN PURPOSE OF USE

WHEREAS:

1. License 5956 was issued to David E. Hurley and Elizabeth M. Hurley and was recorded with the County Recorder of Calaveras County on March 10, 1960, in Book 130, Page 295.
2. License 5956 was subsequently assigned to Hattie B. Gerberding.
3. A petition for change in purpose of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
4. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The purpose of use under this license shall be as follows:

Stockwatering

2. The paragraph to the continuing authority of the Board is replaced with the following: read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable

water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Dated: MAY 15 1987

*Raymond Walsh*

Raymond Walsh, Chief  
Division of Water Rights



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 16486

PERMIT 10325

LICENSE 5956

David E. Hurley and Elizabeth M. Hurley  
Burson, California

THIS IS TO CERTIFY, That

Notice of Assignment (Over)

have made proof as of April 28, 1959  
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of  
an unnamed stream in Calaveras County

tributary to Bear Creek, thence San Joaquin River

for the purpose of irrigation use  
under Permit 10325 of the State Water Rights Board and that said right to the use of said water has been  
perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the  
terms of the said permit; that the priority of the right herein confirmed dates from July 26, 1955  
and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited  
to the amount actually beneficially used for said purposes and shall not exceed forty-two (42) acre-feet per annum  
to be collected from about December 1 of each year to about May 1 of the succeeding  
year.

The point of diversion of such water is located :

North two thousand forty-five (2045) feet and east one thousand seven hundred  
seventy (1770) feet from SW corner of Section 29, T<sup>4</sup>N, R10E, MDB&M being within  
NE<sup>1</sup>/<sub>4</sub> of SW<sup>1</sup>/<sub>4</sub> of said Section 29.

A description of the lands or the place where such water is put to beneficial use is as follows:

13 acres within NE<sup>1</sup>/<sub>4</sub> of SW<sup>1</sup>/<sub>4</sub> of Section 29, T<sup>4</sup>N, R10E, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water  
diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the  
interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of  
diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time  
to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein  
specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

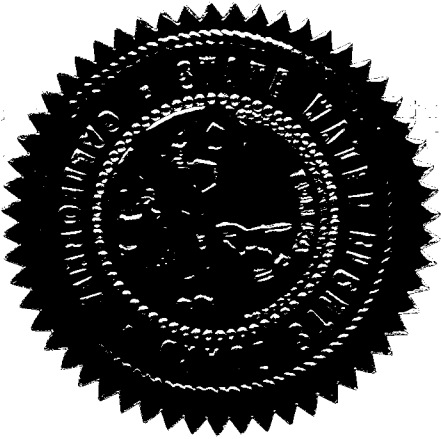
Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: MAR 9 1960



*L. K. Hill*  
L. K. Hill  
Executive Officer

*11/4/68* RECEIVED NOTICE OF ASSIGNMENT TO *William L. & Lawrence L. Gerberding*  
*5-19-86 Aspd to Lawrence L. & Hattie B. Gerberding*  
*1-13-87 Ownership Chgd to Hattie B. Gerberding*

LICENSE 5956  
STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

LICENSE  
TO APPROPRIATE WATER

ISSUED TO David E and Elizabeth M. Hurley

DATED MAR 9 1960